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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,331	11/28/2001	Kenichi Nagaya	2796/0K074	3575

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New York, NY 10022

EXAMINER
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LEMMA, SAMSON B

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/996,331	<b>Applicant(s)</b> NAGAYA, KENICHI	
	<b>Examiner</b> Samson B Lemma	<b>Art Unit</b> 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## ***DETAILED ACTION***

1. **Claims 1-7** have been examined.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119 (a)-(d), which papers have been placed of record in the file.

### ***Specification***

3. The disclosure is objected because of the following informalities:
  - On page 5, 6<sup>th</sup> paragraph, "... the firewall software to ensure the security of the **internet**", has been recited, It should be corrected as "... the firewall software to ensure the security of the **internet server**".
  - On page 6, 4<sup>th</sup> paragraph, "software specified by the user from the control **server 2**", has been recited, It should be corrected as "software specified by the user from the control **server 10**".
  - On page 6, last line-page 7, 1<sup>st</sup> line, the **control server 2** is recited, It should be corrected as "**control server 10**".

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- On page 6, end of the second paragraph, **control server 2**, is recited. It should be corrected as “**control server 10**”.
- On page 8, 3<sup>rd</sup> paragraph, “first, the user **who downloads the internet server 2** and access the site which manages by the internet server 2 through the internet ” is recited. It should be corrected as, “ first, the user **who downloads the application software ....**”
- On page 10, 1<sup>st</sup> paragraph, 2<sup>nd</sup> line, “... in the **computer server 10** determines the diagnosis based on the overall monitored ...” It should be corrected as the “... in the **control server 10** determines the diagnosis based on the overall monitored ...”

Appropriate correction is required.

### ***Drawings***

4. The drawing is objected because of the following informalities:

- On page 7, last paragraph, reference numeral 12 denoting a user authenticating unit for authenticating the internet server 2 ...” is recited however the corresponding figure 3, does not show the **reference numeral 12**, referring to the **User Authenticating Unit**.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-7** are rejected under 35 U.S.C. 103(a) as being unpatentable over by **Larose et al** (hereinafter refereed as "**Larose**") (U.S. Patent number: 6,108,420)(hereinafter referred as **Larose**) in view of **Cheswick et al** (U.S. Reg. No: H1944H) (hereinafter refereed as **Cheswick**)

7. **As per claim 1, and 4-5** **Larose** discloses a system for distributing application software, [column 3, lines 6-8; abstract, lines 1-3; column 1, lines 7-11] (the present invention pertains to a method for the electronic distribution of software application from a distribution computer to an installation computer...) **comprising:**

- **An Internet server;** [figure 1, reference, "Installation Computer components" including figure 1, ref. Num "200"; column 5, lines 56-58; column 5, lines 53-60] (The UIA /User Installation Agent shown on figure 1, ref. Num "200" is resident on the installation computer/internet server as explained on column 5, lines 6-8; and this installation computer which is used to install the software could be a central server/internet server for use by the number of end users as explained on column 5, lines 58-60) and

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- **A control server** [Figure 1, reference “Distribution computer components”] **comprising**
  - **An application distribution unit** [Figure 1, ref. Num “100”; column 4, lines 33-36] (The secure distribution agent shown on figure 1, ref. Num “100” is resident on the distribution computer/an application distribution unit as explained on column 4, lines 34-36] **which stores downloadable application software purchased by a user of said Internet server**, [Column 5, lines 21-52; column 3, lines 6-17] (The UIA /the user installation Agent resident on the installation computer/internet server receives/accepts payment information/options and other user data from the users as shown on figure 1, ref. Num “32” and ref. Num “34” as explained on column 5, lines 21-23; and this identifying data shown on figure 1, ref. Num “32” and ref. Num “34” is processed by the user installation agent and transmitted to the to the SDA or secure distribution agent which is resident on distribution computer/application distribution unit as explained on column 5, lines 33-37 and the SDA/Secure distribution Agent which is resident in distribution computer stores the application software/original distribution file “130”, purchased by a user of said internet server/installation computer as explained on column 5, lines 61-column 6, line 4)
  - **Wherein the software for downloading the application software from said control server** [Secure distribution computer; figure 1] **and installing it to said Internet server** [installation computer shown on figure 1, ref. Num “200” which is can also be the central server as explained on column 5, lines 58-60] **are preinstalled to said Internet server** [Column 3, lines 6-17] (The installation computer which is

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interpreted by the office as the Internet server has inherently contains/stored/preinstalled the necessary software for downloading the application software from the secure distribution computer and installing it in its own memory. Had it not preinstalled the necessary software for downloading the application software, it would not have been able to download and install the application software from the secure distribution computer which is interpreted by the office as the control server.)

**Larose** does not explicitly discloses

- A control server for setting a firewall software and wherein the firewall software are pre-installed to said Internet Server.

However, in the same field of endeavor, **Cheswick** discloses **A control server** [central source or server of the Lucent Managed Firewall Inc] for delivering/monitoring/updating a **firewall software** [firewall routines 235] and wherein the firewall software [firewall routing 235] are first pre-installed as shown on figure 2, ref. Num "235" and updated by downloading certain update routines from the central source/server of the Lucent Managed Firewall Inc] to the internet server [computer 300] [Column 6, lines 21-35]

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to combine the features of having a firewall software [firewall routine] preinstalled on the computer[computer 300] and set by Lucent Managed Firewall Inc and updating this routine/software from the central server on the internet as per teachings of **Cheswick** in to the method of distributing application software as taught by **Larose**, in order to

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provide a firewall security configuration for small/medium networks and individual computer users. [See Cheswick column 2, lines 29-32]

8. **As per claim 2**, the combination of **Larose and Cheswick** discloses a system for distributing application software as applied to claim 1 above. Furthermore **Larose discloses the system wherein, under the permission of an administrator [secure distribution Agent; figure 1, ref. Num "100"] of said control server** [distribution computer, figure 1, ref. "distribution computer components"], **a third party** [figure 1, ref. Num "10"] **can supply the application software to said application distribution unit in the control server.**[Column 4, lines 36-38; column 4, lines 30-32] (The SDA, the secure distribution agent resident on distribution computer which is interpreted as the control server is interfaced with the ESD back-end component 10[3<sup>rd</sup> party] via the Internet or private network and loads the software application from the publisher or the Electronic Software Distribution as explained on column 4, lines 36-38 and column 4, lines 30-32]

9. **As per claim 3**, the combination of **Larose and Cheswick** discloses a system for distributing application software as applied to claim 1 above. Furthermore **Larose discloses the system wherein**, said Internet server can be specified and authenticated to download the application software. [column 10, lines 24-29; column 3, lines 12-17; column 3, lines 25-26] (Uniquely customized instance of a software application that is authenticable and traceable to a particular user. )

10. **As per claim 6**, the combination of **Larose and Cheswick** discloses a system for distributing application software as applied to claim 1 above. Furthermore **Larose discloses the system**, further comprising: a network payment unit which is linked to a



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credit/payment server, wherein said license issuing unit issues a license when checking the payment to an account of said network payment unit. [Column 4, lines 28-36; column 4, lines 52-57]

11. **As per claim 7**, the combination of **Larose and Cheswick** discloses a system for distributing application software as applied to claim 1 above. Furthermore **Larose discloses the system, wherein a key of the firewall software is set by manually inputting and recording ID plane text and password plane text determined by an administrator of said control server to said control server,**[Column 3, lines 27-40] **said ID plane text and a signature encrypted by the ID plane text are informed to the user of the Internet server via transmitting means via no network, such as a hard mail** [column 3, lines 46-49] **and the user manually inputs and records them to the Internet server, and information is transmitted between said Internet server and said control server by using the ID plane text, the signature encrypted by the password, and a document encrypted by said signature.**[Column 3, lines 50-56]

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.(See PTO-Form 892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samson B Lemma whose telephone number is 571-272-3806. The examiner can normally be reached on Monday-Friday (8:00 am---4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BARRON JR GILBERTO can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

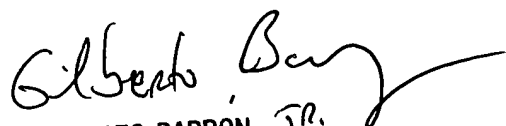
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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04/05/2005

  
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